

IN CLERK'S OFFICE

AUG 18 2010

U.S. DISTRICT COURT
MID. DIST. TENN.

AT NASHVILLE, TENNESSEE

Plaintiff

Docket/Complaint No. _____

Randall Boyce, Bedford Co. Sheriff

Officer Cam, Deputy

Officer Doug, Deputy

John Doe #1, Deputy

Jane Doe #2, Nurse

John Doe #3, Male Nurse

Dr. H. Rupert, Contract Doctor

Respondent['s]

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
UNDER 42 U.S.C. §1983

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes () No (XXX)
- B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuit on another piece of paper, using the same outline.)

Plaintiff('s) N/A

Defendant(s) N/A

2. Court [if federal court, name the district; if state court, name the county]

N/A

3. Docket number: _____

4. Name of judge to whom case was assigned: N/A

5. Disposition [for example: was the case dismissed? Was it appealed? Is it still pending?]
N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

II. PLACE OF PRESENT CONFINEMENT:

South Central Correctional Facility
555 Forest Ave.
Clifton, TN 38425

A. Is there a prisoner grievance procedure in this institution? Yes ☒ No () **DENIED RIGHT TO UTILIZE**

B. Did you present the facts relating to your Complaint in the state prisoner grievance procedure? Yes () No ☒ **I was removed from facility to deny me access to their Grievance Procedure**

C. If your answer is yes,

1. What steps did you take? DENIED BY TRANSFER OF ACCESS

2. What was the result? DENIED BY TRANSFER OF ACCESS

D. If your answer is "no" explain why not: AFTER TAKEN TO HOSPITAL FOLLOWING
SIX (6) HOUR SURGERY, I WAS RELEASED ON MY OWN RECOGNIZANCE

E. If there is no prisoner grievance procedure in the institution, did you complain to prison authorities? Yes (XX) No () EVERY HOUR ON THE HOUR

F. If your answer is yes,

1. What steps did you take? REPEATEDLY PLED FOR A NURSE OR DOCTOR,
WHEN DENIED I CONSTANTLY REQUESTED GRIEVANCE FORMS AND
2. WAS DENIED THESE FORMS
What was the result? UNENDING, EXCRUCIATING PAIN

III. PARTIES:

[In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional Plaintiffs, if any.]

A. Name of Plaintiff(s): Randall E. Fulghum, 555 West Forrest St.,
Clifton TN 38425

Address: 555 West Forrest St. Clifton, TN 38425

[In item B below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item C for the names, positions and places of employment of any additional Defendants.]

B. Name of Defendant: Randall Boyce, III, is employed
as Sheriff at Bedford Co. Jail

Name(s) of additional Defendants: Deputy Bear, Deputy, Bedford Co. Jail,
Deputy Cam, Deputy Bedford Co. Jail, Deputy Doug, Deputy,
Bedford Co. Jail, Deputy JOHN DOE, #1 Deputy Bedford Co. Jail,
NURSE JANE DOE #2, NURSE, Bedford Co. Jail, JOHN DOE #3,
Male Nurse, Contracted Bedford Co. Jail, Dr. H. Rupert, Doctor
Contracted Bedford Co. Jail

IV. STATEMENT OF CLAIM:

[State here as briefly as possible the facts of your case. Describe how each Defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach additional sheets if needed.]

PLEASE SEE PAGES 5 through 9

SEE ATTACHED

PLEASE SEE PAGES 5 through 9

1. On August 4, 2009 while at the Bedford Co. jail, in Shelbyville, TN during the evening meal approximately 5:30 p.m. something from their Jail Menu, stuck just above the bottom of my sternum while eating.

2. In an attempt to wash down this stuck food particle, I sipped a drink of tea. I proceeded to take a second bite of my meal. As this chewed bite, went down I felt a very sharp pain as if something was being forced through my sternum.

3. Again I attempted to wash down whatever was stuck with a sip of tea. The sensation this time was as if the tea had entered my chest cavity and not my stomach, because the cold sensation was to one side of my chest/stomach area. Immediately after that second bite and sip of tea, the pain was unbearable. With every breath I took I felt an unbearable pain.

4. Immediately I called for Deputy's; Bear, Cam, or Dough to report this injury and the severe pain.

5. About one and ½ hours later Deputy Bear came to see what was wrong, after explaining it to him he, told me to inform the nurse of this in the morning.

6. I went to the mattress on the floor that I was assigned and laid down. Immediately as I laid down, I felt a very sharp pain in my chest and stomach area and I could not breath. Every attempt to breath was a struggle and Extremely painful. I was unable to sleep at all that night and the only position that I could stay in to lessen the pain was sitting upright.

7. On Aug. 5, 2009 Deputy Bear came back to serve breakfast trays and I told him of my problems breathing and the Excruciating Pain that I had suffered through night and that the injury had gotten worse and the pain was intensifying by the minute, and I needed to see a doctor.

8. Deputy Bear again said he would inform the nurse of this injury. I waited the entire day of August 5, 2009 without seeing anyone. Deputy's Bear, deputy Cam and deputy Doug repeatedly ignored my screams for help from the pain.

9. Again that night the pain had gotten worse and I started to have difficulty moving around and the pain in my chest continued to increase.

10. In an attempt to use the toilet I passed out from the pain. When I came to inmate Charles O'Range and two deputies [Cam and John Doe 1#] were standing over me. One of the Deputies was asking me what happened. Inmate Charles O'Range told the deputy's Cam and John Doe #1 that I walked over to the toilet and just fell.

11. I was informed by deputy Cam that nothing was wrong with me, nothing was going to be done and that I would have to wait till the morning to talk to the nurse. Inmate Charles O'Range helped me to the mattress on the floor where I laid there with problems breathing and suffering Excruciating Unbearable Pain, I had suffered through yet another night. The injury continued to worsen, the pain intensified and I repeatedly called for help screaming to see a doctor fearing that I was lying there slowly dying as I struggled to breath.

12. On Aug. 6, 2009 when deputy Bear was serving breakfast trays I told him again for the third day of my problems breathing that I couldn't eat, that I have Not slept in two nights, the Pain that I was suffering through all night was Excruciating, I was sweating and shaking to please let me see the nurse now. Deputy Bear again said he would inform the nurse of this injury.

13. After lunch on August 6, 2009 around 1:30 p.m. a nurse, [Jane Doe #2] came back to the cell to see me. Shining a light down my throat she asked me what was going on. I told her of the pain in my chest and stomach, the trouble breathing, the unbearable pain, how when I swallowed any liquid it felt like it was entering my chest cavity and not my stomach, I told her of my cold sweats and lack of sleep for more than seventy (70) straight hours.

14. She said she would let Dr. Rupert know what was going on and see what he said. One and ½ hours later I was taken to Dr. Rupert's office. The nurse asked me what my problems were.

[14. Cont'd.] Again I repeated for him the pain and suffering that I had been forced to endure for more than seventy (70) hours without any sleep, all this time I was constantly being ignored. She wrote all of this down, took my vitals and sent me to an exam room to wait for the doctor or nurse practitioner.

15. A male nurse [John Doe #3] then entered the exam room and asked me what was going on. I specifically told him that I was having difficulty breathing, I had a severe pain in my chest, I couldn't eat or swallow anything and that my stool was black from dried blood and that my neck was slightly swollen. He looked in my throat with a light and ask me to lay down on my back. As I struggled to lie down my breathing was more labored than ever before. He started pressing on my left side asking if that hurt, I screamed in pain that response to my pain was evident, still I said yes under labored breathing, he then pressed in the center of my chest asking if that hurt, I screamed in pain again and said yes.

16. He ordered an x-ray of my chest, the x-ray was done and I was escorted back to the exam room. Roughly thirty minutes later he returned and explained that I had pneumonia in my left lung and prescribed me an antibiotic and a pain medicine.

17. I asked about my throat, why I had this pain in the middle of my chest, why it felt like the liquid I drank felt like it was entering my chest cavity and why I couldn't eat or swallow? He said the pneumonia would do that and sent me back to the mattress on the floor in the jail.

18. Frustrated from this misdiagnosis I returned to my mattress on the floor, forced to suffer another night in without sleep in Excruciating Pain.

19. During the night I noticed that my neck had swollen nearly closed cutting off my breathing, causing me to take in very shallow breaths to ease the pain, my cold sweats had worsened.

20. At breakfast I repeated the same futile process of pleading for someone to help me, screaming for Deputy's; Bear, Cam, or Doug to call the nurse, fearing that I was actually dying. The entire morning I was ignored just as I had been since this undiagnosed problem persisted.

21. Around noon I managed to see the Female Deputy working in the Control Room begging her for help. She noticed the Swelling in my neck and said I should be taken to the emergency room.

22. I was rushed to the Heritage Hospital in Bedford Co., Shelbyville, TN. In the emergency room I was asked what was wrong.

23. I told the Doctor my problems, he too ordered an x-ray having me swallow a white liquid. When the doctor returned he noticed my neck swollen. Immediately he contacted Vanderbilt University Medical Center in Nashville, TN for a second opinion.

24. Shortly thereafter it was determined that I may be suffering from perforated esophagus and that I needed to be transported to Vanderbilt Medical Center.

25. Upon my arrival the same procedure was repeated, I drink white liquid, another x-ray was taken, I then had to wait. Approximately one hour later two surgeons entered the room to explain to me that I did have a perforated esophagus and that I was about to be prepped for a 6 hour surgery. I was also informed that my chances of surviving this surgery was 50/50 because of the nature of my injury.

26. I awakened from the surgery, deputy Doug was next to me and I was in a 4 point restraining system. My ankles and wrists were strapped to the bed where I could not move.

27. When Dr. Putman, the head of Thoracic Surgery entered to check on me, he asked why I was restrained in such a fashion? Deputy Doug stated, it was for my safety and his for me to be restrained.

28. Dr. Putman, informed deputy Doug that I was no danger to anyone, due to the nature of the surgery and the tubes connected inside of me and medications that I was under. Dr. Putman also told deputy Doug that being restrained in this fashion would negatively interfere with my treatment and rehabilitation.

29. Following a lengthy and heated argument deputy Doug, released me from the 4 point restraint shackling my ankle to the bed.

30. On August 26, 2009 Bedford Co. jail released me on [O.R.] my Own Recognizance without explanation or a Court hearing and notified Sumner County to take custody of me, removing me from their facility, Deliberately Causing me to NOT have access to their Grievance Process, attempting to avoid "LIABILITY.

31. On August 28, 2009 I was released from Vanderbilt Medical Center into the custody of Sumner County.

32. As a direct result of the Deliberate, Arbitrary Negligence of the aforementioned Defendant's: Sheriff Randall Boyce, the Bedford County Jail, Deputies; Bear, Cam, Doug and the Unknown Deputy [JOHN DOE; #1] Unknown Nurses [JANE DOE #2 AND JOHN DOE #3] as well as the their Contracted Doctor, Defendant Rupert, nearly one (1) year following this injury in the Bedford Co. Jail, I still suffer from:

1. Digestive Problems,
2. Chronic pain in my; throat, chest and esophagus,
3. Difficulty eating I get sick with everything I eat,
4. Constant Pain on my left side,
5. Periodic problems using the toilet,
6. I can Not lie on my left side and
7. I have a severe scar on my left side and noticeable holes in my stomach from surgery tubs.

V. RELIEF [State briefly **EXACTLY** what you want the Court to do for you.]

[Make no legal arguments. Cite no statutes.]

- (A) Issue an **ORDER** that by the acts and omissions of the Defendant['s] as set forth and described herein, Violated Plaintiff's Rights of Proper and Adequate Medical Care and Humane Treatment, resulting in Cruel and Unusual Punishment and **FURTHER ORDER** that Each Defendant is sued in their Official and Individual Capacity.
- (B) Appoint Counsel to assist Petitioner [in Part due to his Incarceration] in the forthcoming Task of Acquiring Protected Medical Records from Three (3) different Medical facilities that will support his Claim of Medical Negligence and Cruel and Inhumane Treatment.
- (C) Award Plaintiff **Compensatory Damages**, in the Amount of Two Hundred and Fifth Thousand Dollars **(\$250,000.00)** dollars from: Each Defendant.
- (D) Award Plaintiff **Punitive Damages**, in the Amount of Five Hundred Thousand Dollars **(\$500,000.00)** dollars from: Each Defendant.
- (E) Award Plaintiff **Nominal Damages**, in the Amount of One Hundred Thousand Dollars **(\$100,000.00)** dollars from: Each Defendant.
- (F) Award Plaintiff pre-judgment interest.
- (G) Award Plaintiff Reasonable Attorney Fees, Copy and Mailing Cost.
- (H) Award Plaintiff the cost of this lawsuit
- (I) Award Plaintiff other such and further relief that this Honorable Court Deems; Proper, Just and Equitable.

BY: Randall E. Fulghum
Randall E. Fulghum, Plaintiff

CERTIFICATE OF OATH

I declare under penalty of perjury that the foregoing is true and exact, to the best of my knowledge, information and belief.

Signed on this 16 day of August 2010.

Randall E. Fulghum
Randall E. Fulghum, Plaintiff

DETERMINATION OF NON-INDIGENCY

It appearing based upon the Affidavit of Indigency filed in this Cause and after inquiry made that the Plaintiff is not an indigent person because: _____

HONORABLE JUDGE

NOTICE: If the judge determines that based upon your affidavit you are not eligible to proceed under a pauper's oath, you have the right to a hearing before the judge or, in those cases that can be appealed to Circuit Court, a hearing before the Circuit Court Judge.